



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION

August 13, 2013

Barbara A. Beno, Ph.D.  
President  
Western Association of Schools and Colleges,  
Accrediting Commission for Community and Junior Colleges  
10 Commercial Boulevard, Suite 204  
Novato, California 94949

Dear Dr. Beno:

As you are aware, the Accreditation Group in the Office of Postsecondary Education (Accreditation Group or Department) received a complaint from the California Federation of Teachers (CFT), as well as other interested parties, about the Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges (ACCJC, the Commission or the agency). In addition to that complaint, the Accreditation Group also received complaints from other interested parties<sup>1</sup>, which included similar concerns. The Department has concluded its review of those complaints.

As a part of its evaluation, the Department reviewed the allegations raised in the complaints of the CFT and the others for applicability to the Secretary's Criteria for Recognition and requested that your agency respond to the allegations regarding your agency's accreditation review process and decision concerning City College of San Francisco (CCSF or the institution). The agency provided a written response and also directed the Department to review information and materials already submitted in the agency's petition for recognition. The Department then reviewed all of the documentation for demonstrated compliance with the Secretary's Criteria for Recognition.

Based on a review of the information and documentation, the Accreditation Group has found that some aspects of the agency's accreditation review process do not meet the Secretary's Criteria for Recognition. Specifically, the Accreditation Group has determined that the ACCJC is out of compliance with 34 C.F.R. §§602.15(a)(3), 602.15 (a)(6), 602.18(e), and 602.20(a) of the Secretary's Criteria for Recognition, as described below:

1. The agency does not have a specific policy on the composition of on-site evaluation teams. The agency's "Policy on Commission Good Practice in Relations with Member Institutions" states that it will "include educators, academics, administrators and members of the public on evaluation teams." And, the agency's "Team Evaluator Manual" states that "Typically, a team has several faculty members, academic and student services

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<sup>1</sup> The other interested parties are listed in the cc: section of the letter.

administrators, a chief executive officer, a trustee, a business officer, and individuals with expertise and/or experience in learning resources, distance/correspondence education, planning, research, evaluation, and baccalaureate programs.”

The agency provided in its response the composition of the two teams that evaluated CCSF in March 2012 and April 2013, both of which included a large number of administrators in comparison to the number of faculty members. In its petition, the agency provided the suggested standard evaluation assignments based on job title, as well as sample evaluation team rosters. This information does not specifically require nor demonstrate adequate representation of both academic and administrative personnel on evaluation teams, nor does it evidence the agency’s following its statement in its Team Evaluator Manual that it typically includes several faculty members on a team. In addition, the agency does not state in any materials that agency staff could or would serve on an evaluation team; however an ACCJC staff member was listed as a member of the team for the April 2013 evaluation of CCSF.

Section 602.15(a)(3) of the Secretary’s Criteria for Recognition requires that if an agency accredits institutions, as the ACCJC does, then it must have academic and administrative personnel on its evaluation, policy, and decision-making bodies. The criterion expects a good faith effort by the agency to have both academic and administrative personnel reasonably represented. One academician on an evaluation team comprised of eight and 16 individuals, as was the case for the April 2013 and March 2012 evaluation teams, respectively, of CCSF, is not reasonable representation. The agency must demonstrate that it ensures that both academic and administrative personnel are adequately represented on its evaluation teams.

2. The agency’s “Policy on Conflict of Interest for Commissioners, Evaluation Team Members, Consultants, Administrative Staff, and Other Commission Representatives” states that one purpose of the policy is to minimize relationships that might bias deliberation, decisions or action.

The agency stated that there is no commonly-accepted rule within the accreditation community, nor the higher education community-at-large, that would disqualify an individual’s participation on an evaluation team because his/her spouse was employed by the accrediting agency. In addition, the agency also stated that this conflict would only exist if there was an avenue for either spouse to exploit the situation for personal or professional financial gain, or if in opposing roles within the process. However, the existence of a conflict of interest, or the appearance of a conflict, cannot be determined without considering the specific factual situation. Here, the team member is the spouse of the president of ACCJC, and the president regularly represents the Commission in a wide variety of capacities. And, there does not have to be an opportunity for financial gain by an individual for there to be the appearance of a conflict of interest.

Section 602.15(a)(6) of the Secretary’s Criteria for Recognition requires not just clear and effective controls against conflicts of interest, but also against the appearance of conflicts of interest. The appearance of a conflict of interest is present if there is a

potential for the personal interests of an individual to clash with fiduciary duties. Personal interest includes not only financial gain but also such motives as the desire for professional advancement and the wish to do favors for family and friends. Even knowing the complex structure of the ACCJC's accreditation process and that accreditation decisions are made by the Commission, the participation of the spouse of the president of the ACCJC on an evaluation team has the appearance to the public of creating a conflict of interest (i.e., an appearance of bias of the Commission in favor of the team's position over that of the institution's). Therefore, the Accreditation Group determined that this practice precludes us from determining that the ACCJC has clear and effective controls against conflicts of interest, or the appearance of conflicts of interest, as required. The agency must demonstrate that it has clear and effective controls against conflicts of interest, and the appearance of conflicts of interest.

3. The agency's "Policy on Commission Actions on Institutions" states that the action to reaffirm accreditation includes recommendations that "are directed toward strengthening the institution, not correcting situations where the institution fails to meet the Eligibility Requirements, Accreditation Standards and Commission policies." The action to reaffirm with a follow-up report is made when an institution "has recommendations on a small number of issues of some urgency which, if not addressed immediately, may threaten the ability of the institution to continue to meet the Eligibility Requirements, Accreditation Standards and Commission policies."

The agency stated in its response that it has two types of recommendations – "to meet the standard" or "to increase institutional effectiveness," as also noted in the policy excerpts above. What is not clear is how the recommendations are differentiated between those two types and how an institution, an evaluation team, the Commission, or the public is to know the difference.

In the Executive Committee report of the agency's own review of the CFT complaint, the agency states the following:

It is accurate that the 2006 Report found that the institution met sufficient numbers of standards to have its accreditation reaffirmed. However, the 2006 report also included eight "major recommendations." When the Commission met and considered the 2006 Report at its Commission Meeting on June 7-9, 2006, it considered two of the "recommendations" to be serious enough to require that the institution take corrective action and provide the Commission with a Progress Report.

And, later in the same section of the report:

The Evaluation Report (the "2012 Report") of the team that visited the institution in March of 2012 documented that, between 2006 and 2012, the situation at CCSF had deteriorated dramatically, and many of the areas which were noted only as "recommendations" in the 2006 Report had deteriorated to the extent that they

had become serious deficiencies in 2012.

This summary alone reflects the difficulty to ascertain what a recommendation represents – an area of noncompliance or an area for improvement.

Section 602.18(e) of the Secretary's Criteria for Recognition requires that the agency provide the institution with a detailed written report that clearly identifies any deficiencies in the institution's compliance with the agency's standards. By using the term recommendation to mean both noncompliance with standards and areas for improvement, the agency does not meet the regulatory requirement to provide a detailed written report that clearly identifies any deficiencies in the institution's compliance with the agency's standards. This lack of clear identification impacts the agency's ability to provide institutions with adequate due process. The agency must demonstrate that it provides a detailed written report that clearly identifies any deficiencies.

4. As previously stated, the agency uses the term "recommendation" to mean an institution has a deficiency in meeting at least one of the agency's standards, or the institution meets the standard but could use additional effort or improvement in this area. Within the agency's "Policy on Commission Actions on Institutions," it states that the action to reaffirm with a follow-up report includes recommendations and the Commission expects the resolution of those recommendations within two years. As the Commission expects the resolution of the recommendations, the use of the term recommendation in this instance is assumed to mean noncompliance with a standard.

Section 602.20(a) of the Secretary's Criteria for Recognition requires that if an agency's review of an institution under any standard indicates that the institution is not in compliance with that standard, the agency must initiate an adverse action or provide a timeframe of no more than two years for the institution to bring itself into compliance. The Commission noted this specific requirement and recited the correct interpretation of the regulation in its response. However, it appears that the Commission continues to implement the required enforcement timeframe only after the agency has imposed a sanction on an institution.

Specifically, the agency's "Policy on Commission Actions on Institutions" states that if an institution cannot demonstrate that it meets the agency's standards, then it will be placed on sanction and will have two years to come back into compliance. This policy language indicates that only once an institution is placed on an agency-defined sanction is a deficiency required to be remedied within the enforcement timeline, whereas the regulation has no such limiting language for an area of non-compliance.

In its response, the agency states that the recommendations included in the 2006 Commission action letter to CCSF to reaffirm the institution's accreditation and require a follow-up report needed to be resolved within a limited timeframe. As excerpted above, the Commission considered two of the recommendations "serious enough" to require interim reports (a progress report in 2007, a focused midterm report in 2009, and a

follow-up report in 2010). And, the agency stated in the 2012 Commission action letter to CCSF that part of the reason for the show cause order was the failure of the institution to correct areas of noncompliance cited in 2006. The agency cannot treat an issue serious enough to require reporting and to be part of the rationale for a show cause order, but not serious enough to enforce the timeframe to return to compliance, as required by federal regulation.

The Commission has not demonstrated appropriate implementation of this regulation. Allowing an institution to be out-of-compliance with any standard for more than two years is not permissible within §602.20(a) of the Secretary's Criteria for Recognition. The agency must demonstrate that it initiates an adverse action<sup>2</sup> or provides a timeframe of no more than two years for an institution to bring itself into compliance if an agency's review of an institution under any standard indicates that the institution is not in compliance with that standard. At the end of that two-year period, the agency is obliged to take an adverse action if the institution remains out of compliance with the standard.

The Department finds that ACCJC does not meet the requirements of the sections cited above. Section 496(l) of the Higher Education Action of 1965, as amended, 20 U.S.C. §1099(b)(l), requires the Department to initiate adverse action when it determines that a recognized accrediting agency fails to meet the Criteria for Recognition. Alternatively, the Department may allow the accrediting agency a limited timeframe, not to exceed 12 months, to come into compliance. Therefore, we have determined that in order to avoid initiation of an action to limit, suspend or terminate ACCJC's recognition, ACCJC must take immediate steps to correct the areas of non-compliance identified in this letter. Please provide your response to the specific sections in this letter, within your response to the draft staff analysis of the agency's petition for recognition to the Accreditation Group.

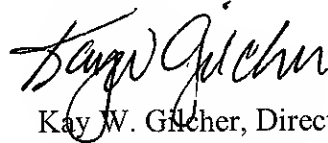
The Department noted other issues raised in the complaints submitted and considered those in the course of its review. To the extent issues identified by the staff from the complaints have not been discussed above, they are issues which the staff concluded were either not related to the Secretary's Criteria for Recognition or were found to be compliant with the Secretary's Criteria for Recognition within the context of this review. As the agency has submitted a petition for recognition to the Department, a complete review of all sections of the Secretary's Criteria for Recognition will be conducted in that context and it is possible that areas of non-compliance could be found that were touched on in the complaints but not identified as such by the staff in reviewing the complaints.

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<sup>2</sup> The Secretary's Criteria for Recognition define "adverse action" as denial, withdrawal, suspension, revocation, or termination of accreditation or preaccreditation, or any comparable accrediting action an agency may take against an institution or program.

If you have any questions regarding this letter's content, please contact Elizabeth Daggett, by phone at 202-502-7571 or email at [Elizabeth.Daggett@ed.gov](mailto:Elizabeth.Daggett@ed.gov). Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kay W. Glcher".

Kay W. Glcher, Director  
Accreditation Group

Cc: Mr. Robert J. Bezemek,  
Counsel for Third Parties and Complainants  
California Federation of Teachers  
AFT Local 2121  
Additional complainants not listed individually

Mr. Alvin Ja

Mr. Paul Harvell

Ms. Wendy Kaufmyn

Mr. Rick Baum

Mr. Martin Hittelman

Mr. Thomas Brown

Mr. Rick Sterling